IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Misc. Writ Petition No. 1730 (S/S) of 2001
(Old No. 35279 of 1993)

(1) Bahadur Singh
(2) Rai Singh ... Petitioners

Versus

Prabhagiya Logging Parbandhak,
U.P. Van Nigam, Pauri, District-
Pauri Garhwal and two others. ...Respondents

.....

Hon'ble P.C.Verma, J.

By means of this petition the petitioners have challenge the impugned orders dated 09.07.1993 and dated 09.09.1993, contained as Annexures Nos. 7 & 8 respectively to the writ petition, by which the petitioners were relieved for seasonal leave and were asked to hand over charge.

During the pendency of this writ petition the services of the petitioners were retrenched on 24.03.1995 on the ground of shortage of work. The petitioners sought for amendment of the writ petition, which was allowed. The petitioners further prayed to issue writ of certiorari to quash the impugned retrenchment order dated 24.03.1995 passed by the respondent No. 1.

The case of the petitioners is the petitioner No. 1 was appointed on the post of Peon on 01.07.1983 in Van Nigam on daily wages basis. The petitioner No. 2 was appointed on 01.12.1983 on class-IV post on daily wages in the Van Nigam and since 28.07.1990 both the petitioners were regularly selected on the post of Scaler on the basis of daily wages. On 24.03.1995 the services of the petitioners were retrenched without prior notice.

Admittedly, while effecting retrenchment, the provisions of Sec. 25-N of Industrial Disputes Act have not been followed. There is also violation of provisions of Sec. 6-N of the U.P. Industrial Disputes Act. Therefore, the retrenchment order is bad in the eye of law and it cannot be sustained.

This Court in its judgment date 21.08.2003 in ***Writ Petition No. 1376 (M/S) of 2001, Jabar Singh and eleven others versus presiding officer, Labour Court and three others*** has held that the Forest Corporation is an industrial establishment within the procedure prescribed in Chapter V-B of Industrial Disputes Act. Therefore, before effecting the retrenchment, the provisions of Section 25-N of the Industrial Disputes Act must be complied with. Since the retrenchment orders have been passed without complying the provision under Sect. 25-N, the orders are void ab initio.

Therefore, the writ petition is allowed. The retrenchment order dated 24.03.1995, contained in Annexure No. 10 to the writ petition, is quashed so far as it relates to the petitioners. The petitioners shall be allowed to work but they will not be paid any back wages. No order as to costs.

(P.C.Verma, J.)

30.09.2003
P.Singh